

APPROVED 12-18-03



**SCOTTSDALE DEVELOPMENT REVIEW BOARD
KIVA - CITY HALL
3939 N. DRINKWATER BOULEVARD
DECEMBER 4, 2003
MINUTES**

PRESENT: Tom Silverman, Council Member
E.L. Cortez, Vice Chairman
Jeffery Schwartz, Planning Commission Member
Michael D'Andrea, Design Member
Anne Gale, Design Member
Jeremy Jones, Design Member
Michael Schmitt, Design Member

STAFF: Pat Boomsma
Tim Curtis
Jayna Shewak
Al Ward
Greg Williams
Kira Wauwie

CALL TO ORDER

The regular meeting of the Scottsdale Development Review Board was called to order by Councilman Silverman at 1:00 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

OPENING STATEMENT

APPROVED 12-18-03 - bdf

COUNCILMAN SILVERMAN read the opening statement that describes the role of the Development Review Board and the procedures used in conducting this meeting.

MINUTES APPROVAL

November 20, 2003 DRB Minutes

VICE CHAIRMAN CORTEZ MADE A MOTION TO APPROVE THE NOVEMBER 20, 2003, MEETING MINUTES AS PRESENTED. SECOND BY MR. JONES.

THE MOTION PASSED BY A VOTE OF FIVE (5) TO ZERO (0) WITH COUNCILMAN SILVERMAN AND MR. SCHWARTZ ABSTAINING.

CONTINUATION

61-DR-2001#2

Pinnacle Air Group
Site Plan & Elevations
16060 N. 82nd Street
James Elson Architect,
Architect/Designer
Continued to January 8, 2004

CONSENT AGENDA

63-DR-2003

Hayden Crossing
Site Plan & Elevations
14401 N. Hayden Road
Poliquin Kellogg Design Group, Inc.,
Architect/Designer

67-DR-2003

Northsight Retail, Pad B
Site Plan & Elevations
14900 N. Pima Road
Andrews Design Group, Inc.,
Architect/Designer

68-DR-2003

Loco Patron
Site Plan & Elevations
4228 N. Scottsdale Road
Tebo LLC, Architect/Designer

72-DR-2003

Hyatt Regency Scottsdale Spa Addition
Site Plan & Elevations

7500 E. Doubletree Ranch Road
Vernon Swaback Association,
Architect/Designer

121-DR-1995#5

Mirage Trail
Site Plan & Elevations
East of Legend Trails Parkway, between
Desert Ridge Drive & Roadrunner Drive
Mirage Homes Construction, Inc.,
Architect/Designer

VICE CHAIRMAN CORTEZ MOVED TO APPROVE CASES 63-DR-2003, 67-DR-2003, 68-DR-2003, 72-DR-2003, AND 121-DR-1995#5. SECOND BY MR. SCHWARTZ.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

REGULAR AGENDA

119-DR-1998#2

Portales Del Sol
Wall Site Plan & Elevations
7650 E. Cholla Drive
Planning & Development Consulting,
Applicant

MS. SHEWAK presented the Board with a cover sheet from the plat that was approved in 1998 that she just received from one of the speakers. She stated this document illustrates the history behind when this subdivision came through the first time. She reviewed the history on this case.

MR. WILLIAMS presented this case as per the project coordination packet. Staff recommends denial. Staff recommends a wrought iron fence on concrete piers to maintain the open space and provide security.

MR. SCHWARTZ inquired if the retention not being closed was driven by staff or driven by the consensus built in the neighborhood that they wanted open space next to their community. Ms. Shewak replied a combination of both noting that it evolved through the discussion.

VICE CHAIRMAN CORTEZ inquired if the Board has ever approved enclosure with a solid wall of open space. Ms. Shewak stated that historically the Board always strives to maintain open vistas where possible. When security concerns come up, they do look at alternatives to a solid wall and solid fences. There are areas where they do have fences on retention basins.

Vice Chairman Cortez stated all of the correspondence that the Board received is in opposition of this solid block wall. He inquired if staff has received any correspondence in support other than from the applicants'. Ms. Shewak replied she is not aware of any.

MR. SCHMITT inquired if the space they are discussing was initially required open space as a condition of the development. Ms. Shewak replied in the negative.

MR. SCHWARTZ inquired if all of the property owners within the subdivision are in favor of the block wall. Mr. Williams replied that he believed so.

LOU JEKEL, Jekel and Howard, 8283 N. Hayden Road, legal counsel representing the applicants. He reported that every homeowner in Portales Del Sol is in support. He stated there is no legal burden on this property to have anything but a drainage basin in that location. The wall that Portales Del Sol has built is a very decorative wall and they would continue with what is already there so that people know what they will get. The residents of Portales will tell them about their need and desire for a safe secure place for their children to play. He concluded they would request approval of this application and allow them to build their wall.

MR. SCHWARTZ stated it is his understanding that there is not a legal requirement under the zoning that the retention area stay open. He further stated it is his understanding that the permit was pulled and then stopped. He inquired why was the permit revoked and why they here today if that wall should have been built. Why are they going through a process that might not be necessary. Ms. Shewak stated there is no legal requirement other than a drainage function for this basin to maintain it as open space. The staff issued approval for the wall to be built. A staff member who did not have the history on the project issued approval. Staff felt because there had been a lot of public dialogue and input when the case first came through for the plat, the right thing would be to work with the applicant. They did come up with an idea that they told the applicant they would be supportive of (the railing and concrete piers concept), but if the applicant wanted it to be solid, they would have to be true to the process and bring back to a public hearing. As cumbersome as it is to the applicant, they agreed. Ms. Boomsma stated that legally this Board has the right to decide what kind of fence to put up because some type of fence is allowed under the Zoning Ordinance.

VICE CHAIRMAN CORTEZ inquired why the homeowners are not supportive of the recommendation of the view wall. Mr. Jekel stated that he consulted with his clients regarding this issue and his clients believe that they and their children need the privacy and security a solid wall would provide. He further stated from

a legal viewpoint there is no legal reason why they cannot have a solid fence as long as that wall is compatible with what exists.

VICE CHAIRMAN CORTEZ remarked that as a member of the DR Board they have always promoted the open space concept on any development. He further stated City Council is considering a Zoning Ordinance that would prohibit any site walls or perimeter site walls on new developments because solid walls are visually objectionable. He further stated with regard to the staff recommendation to have view wall at this location, particularly if they (the applicant) want to create a place for children to play, he as a parent would want to know when there is water in the retention basin. They lose too many children in pools alone, and they might be creating an attractive nuisance if a solid wall hides the retention basin. Mr. Jekel stated if the homeowners determine they need a better view into this area because of the interior walls they have the ability to create view corridors. He further stated that he felt these are very responsible parents and they would know when it is raining and when there is flooding. He remarked that this Board may have a policy of wanting open space, however, it is not required by ordinance. He further remarked that today these people have the right to build a wall and as to whether the City Council may change the Ordinance and require in the future more open wall that is not part of the ordinance. Legally they cannot address what might happen in the future.

COUNCILMAN SILVERMAN inquired if there was an opening at the north end of the wall. Mr. Jekel replied there is a breakaway section of the wall that allows an easement for a water line to go in and out and for maintenance; they would put in a solid removable section.

MR. D'ANDREA stated that with regard to safety and compatibility of the neighborhood he felt that people have the right to do what they want on their property. He further stated the duty of the DR Board is to ensure the enhancement of the community and what is good for Scottsdale on a whole. Their duty is to maintain that aesthetic. He remarked that he felt just because there was a legal right to put something on that property it is the duty of this Board to ensure that enhances the overall quality of the community.

He stated he felt the open space is nice and the rest of the neighborhood enjoys it. He further stated he would not support a wall. Mr. Jekel reiterated the fact that they have a legal right to have a wall and to use the property the way they want. He stated that he would respectfully disagree that this Board has the power, duty or moral obligation not to follow the law. He further stated it is the Board's obligation to follow the law. He remarked these people simply want to use their property. They have paid taxes, and maintained it and are willing to put in a nice wall.

MR. JONES stated the fact that people can drive by and the retention basin is always visible to passers-by provides a certain element of protection. The idea of a more open wrought iron fence seemed in most ways to be better. However, it is clear that the desire of the people living in this neighborhood was to live in a completed compound of which this is a part, and the wall just pulls it into the compound. It is part of their common property and it is part of their own use so the job of the DR Board is to determine if there is some public need for appearance of openness that supersedes their individual property rights. He concluded that he did not think there was.

MS. GALE inquired how they would identify if the proposed wall is not a side wall or a front wall. Mr. Jekel stated that the proposed wall meets the requirement of being a wall in a gated-community and does not fit into the description of a rear, front or a side wall.

MR. SCHWARTZ apologized that he had to leave early and would not be able to hear all of their comments. He stated that this troubled him because he looks at this subdivision being no different than some subdivisions he has either seen being developed throughout the community, or has been involved with. He further stated that he looks at the example of the project just around the corner called Sterling Place because it is the mirror image of this subdivision, and in which the open space was driven by staff to stay open to Scottsdale Road. Then they (the community) came back through and had it enclosed so that open space was part of that community. He remarked he did not think that this open space is a significant landform. There is no vista corridor along here. There is no advantage to neighborhood to leave it open. Although the neighborhood is so used to it being open that there is almost a visual ownership of what the street looks like now, and it would be hard to image what the street would look like if it were changed.

He reported if this development would not have had amended development standards and just been developed under the R1-35 they wouldn't be required to put in a retention basin. Look at the subdivision across the street, which has no retention basin and probably the same number of lots. He concluded that although he would not be here to vote in favor of the solid block wall he is adamantly in favor of the neighborhoods wish to put in a solid block wall.

(MR. SCHWARTZ LEFT AT 2:00 P.M.)

(COUNCILMAN SILVERMAN OPENED PUBLIC TESTIMONY.)

KURT ALCLIMBRAC, 7650 E. Cortez Road, stated he is the neighbor south that is adjoining tract A. He further stated that he built Portales Del Sol from the ground up. It was originally proposed to be closed and due to the amount of people that showed up at the first DRB hearing the developer chose to leave the

retention basin open and there is a gap in the northeast corner where the water line is located. He remarked that he would like to make sure that the drainage exit points are maintained. He provided history on this property. He further remarked that there are concerns that the trail is going to go away. He noted that he is not against a solid wall on their southern border. He expressed his concern regarding the work that has been done at Portales Del Sol they have accessed through his property. He commented that he has some liability and easement concerns. He further commented that to this day he has never heard from Portales Del Sol or their consultant. He added he would like to talk to his neighbors regarding the on going construction.

REBECCA FRAME, 11730 N. 76th Court, stated that she has two boys that are at the age where they want to ride bikes and have a nice safe place to play. She further stated her concern today is the safety of the wall being a solid wall. As was mentioned they did pull a permit for the wall and started construction because they as a group of neighbors decided that it was an eyesore and they wanted to make it a little more functional and they decided to make it a park type area for their children. If they had known that they were not going to be able to build a solid wall, they would not have moved forward.

EDIE BROUHARD, 7686 E. El Rancho Drive, stated that five years ago the developer presented a plan for a gated community and the neighbors in the surrounding areas were in an uproar. They felt the development did not fit. They felt they had a more rural lifestyle. She further stated because of these issues the developer came up with a compromise that the retention basin would be soften and that was part of the original agreement and without the compromise it might not have passes. She remarked they want to stick to the original agreement. The proposed wall is not compatible with the neighborhood. They have tried communicating with them but they are not interested in communicating. She noted that she had a hard time seeing the need for this area to be walled in.

VERN TRAYLOR, 7650 E. Cholla Drive, reiterated that there are a number of children in the neighborhood and that number is growing. He stated the property is theirs and they felt they do have the right to build a solid wall for privacy and security. He noted that is the reason they bought in the neighborhood in the first place.

DARREN FRAME, 11730 N. 76th Court, stated that he is the HOA President. He further stated that a compromise situation is not a good option for them. The people in the neighborhood are completely united that they believe the block wall is necessary because the basin has been prone to neglect. The wall would be behind seven mature trees and landscaping and would not be any closer to 76th Way than the existing wall. They would not be infringing on the southern horse path or alleyways. He reported that as homeowners they would like to do what

they felt is best and put up an aesthetically pleasing wall. He further reported that a lot of the complaints are more related to the fact that they don't like change as opposed to what is good for the neighborhood. He remarked the security provided from the block wall is important. He concluded that there would not be a waterline issue.

JIM BROUHARD, 7686 E. El Rancho Drive, spoke in opposition to this request. He stated he felt the original agreement by the developer was reached in good faith and should be upheld. The open area was landscaped and maintained and has become a larger community amenity. He remarked he felt there was a better way to do it and he appreciates their consideration.

MARK CARIER, 7626 E. Cholla Drive, spoke in support of this request. He stated that he has two children and he knows all of his neighbors and they let them go out and play in the neighborhood and there is a sense of security but there is that one opening. Their first concern is for the safety, security of their children and doing it right. They would ensure that the drainage would work. He noted he could not see how the proposed wall would change the whole area.

JEFFERY FIELSEHON, 11625 N. 76th Way, stated one of the reasons that he and his wife chose to move to this area is because of the open community. He further stated that he did not think they should build a wall to further close off the neighborhood. He remarked that children need security but it is the parents' responsibility to keep an eye on their children. He further remarked a solution would be to build a see through wall.

JIM STAMATIS, 11762 N. 76th Court, stated when he bought his home a year ago he was told by the broker at the time the goal would be to enclose that area and that was a defining reason why he chose to purchase that property. He further stated the block wall is important for privacy and the security of the children.

KATHLEEN STAMATIS, 11762 N. 76th Court, stated works for the City of Scottsdale and is employed by the Police Department. She further stated that it is her opinion that this is a security issue. She remarked adjacent to that area incidents have occurred that required calling the police. There are problems in this area and visibility breeds problems. She further remarked that she did not want animosity with the neighbors but this is a security issue.

REGGIE SANDERS, 7647 E. Poinsettia Drive, spoke in support of this request. He stated that he plays professional baseball and is gone all of the time and has three girls and another on the way so security is important. He further stated that is one of the reasons he decided to move in the area and was under the assumption the wall would be built. He reiterated that protection is very important.

WYNDEE SANDERS, 7647 E. Poinsettia Drive, spoke in support of this request. She stated there are many children who live in this subdivision so they need security. She further stated there are lots of child abductions and so they are for the security and privacy of a solid wall.

LINDA SANCHEZ, 7652 E. Poinsettia Drive, stated that she has two children, they just recently moved into Portales Del Sol, and they are very happy with their home. She further stated their main concern is for the security of their children. They were told they had a permit and would be enclosing the retention area. She noted the solid wall is very important so that people cannot see their children.

DAVID SANCHEZ, 7652 E. Poinsettia Drive, stated all of the neighbors believed they were moving into a gated community because of the safety and security. He further stated they are paying for that kind of security and they have the right to build the solid wall.

MARK ATANOVICH, 7676 E. El Rancho Drive, spoke in opposition to this request. He stated there was a good reason a compromise was made five years ago. A deal is a deal. He further stated that he felt bad for those who were told there was going to be a wall, but the bottom line is that it is an issue. He urged the Board to disapprove this request.

PAM PHILLIPS, 7675 E. El Rancho Drive, spoke in opposition of this request. She stated she has lived in at this residence for 17 years. She further stated she would question the issue of safety and security of the children in this area. She reported that she raised two children in this area and never had a problem. She further reported that there is a safe park within walking distance from their houses.

TIM MONTGUMERY, 34894 N. 97th Place, stated the other walls that are in the community were put in many, many years ago so they are forced with the question that if they did it we can do it too. He further stated with regard to the people who said they were told by their sales broker that would be put in place his question would be did they get that in writing. He commented that he could understand about the children's safety concerns but there is a risk that people who are pedestrians outside this solid wall potentially causing vehicle pedestrian accidents. He remarked the DR Board has a constant obligation to uphold the community aesthetics. He further remarked he felt it would be for the good of the community to have a fence with a view corridor.

SEAN O'CARROLL, 7439 S. Rita Lane, Tempe, AZ, spoke in support of this request. He stated he lives in Tempe but his future home would be Lot 2 in Portales Del Sol. He further stated that they bought under the impression that

this wall would be built. He reported that his issue comes down to security for them because they have always dreamed of living in a gated community and now are in the position to do so. He further reported that they have four children so they were looking for a community that had security. He commented that he did not want to wall everyone out he just wants to protect his children. He further commented in his opinion they have paid for this property and maintained it and should have the right to keep people from driving through their community to keep their children safe.

JANIS O'CARROLL, 7439 S. Rita Lane, Tempe, AZ, spoke in support of this request. She stated she lives in Tempe but her future home would be Lot 2 in Portales Del Sol. She further stated they have four children. She noted one of the residents does not want people to allow dogs on their landscaped area but people seem to think that is a nice place for their animals. She further noted that there are a lot of children in the neighborhood so security and safety is important. They want to have a safe place for their children to meet.

JIM LANE, 7666 E. El Rancho Drive, stated they are an existing neighborhood that has been open and safe for a long time. He further stated his concern is looking at the compatibility of the neighborhood. He further reported five years ago they came to a solution and he did not see any reason why the decision should be reversed now. He commented that he did not think safety was enhanced by walling everything in. He further commented the safety of the neighborhood comes from knowing your neighbors and looking out for each other.

ALEXA PHILIPS, 7675 E. El Rancho Drive, spoke in opposition to this request. She stated she has lived in this neighborhood for 17 years. She further stated she knows all of her neighbors and she has never heard of any sort of children safety problems. She remarked their parents wanted them to be safe and they have always felt safe in this neighborhood. She further remarked that she thought it is unusual issue that they want to close this area when they have never had any problems.

LAURA WILLIAMS, 7640 E. Poinsettia Drive, stated when they bought their home they were given literature that it would be a gated safe community and it is anything but that. She further stated they build their home on the middle lot facing the cul-de-sac because they have two children. They build their home in the cul-de-sac so their children could play in front of the cul-de-sac and she could watch them. She noted she has the only house with a clear view of the basin, and not a day goes by that a stranger goes through that basin. She commented it is her concern that anyone could walk by and grab one of their children. She further commented that things are not as safe as they use to be. She also noted she is also concerned that routinely she finds beer bottles and cans in this area. She concluded she was in favor of the solid wall.

(COUNCILMAN SILVERMAN CLOSED PUBLIC TESTIMONY.)

MR. JEKEL stated the overriding misconception that he has heard that this was an agreement or impact to keep this area open in perpetuity. If there had been such an agreement, there would have been an easement or a deed restriction. He further stated that with all due respect this is not an amenity for the rest of the neighborhood. This is a piece of property owned by these people who now have a use for it. Legally there is no impact to keep it as it is forever. They are simply asking approval to allow these people who own the property and are paying taxes to use the property.

VICE CHAIRMAN CORTEZ inquired if there was any city liability with regard to altering the use of the retention basin. Ms. Boomsma stated the city does not have any liability.

MS. GALE stated that this is a difficult case. She further stated if you look at the agreement you get the feeling that the original neighborhood was misled in thinking this is an agreement that would protect them in perpetuity. The resentment is in place in this neighborhood and she didn't know if not building this wall would heal the wounds in this neighborhood. She further remarked that it is very difficult to tell a group of people they must pay to maintain a park they clearly can't see. She reported that she felt they should be allowed to use their property as they see fit. She further reported a see-through wrought iron fence would be secure. Not having a wall at all would be improper they are allowed to wall in their property because it is clearly a neighborhood with lots of walls. She added that she certainly would not object to the solid wall if that is the decision of the Board.

MR. JONES stated that he would agree with the presentation that it is the right of this community to complete the community the way they see it and create an environment that shows interest in raising their families. He further stated that he felt it would be within their perimeters to cause the wall not to be built. He reported that he did not see what is owed to the community in the way of private property that overrides the rights of these people in the neighborhood to build their wall.

MR. SCHMITT stated that from a practical perspective he certainly understands the needs and desires of the people living in Portales Del Sol to enclose that area and use it as a park for their children to play. He further stated that he would not agree with some of the perceptions of what creates a safe or unsafe environment. He remarked that he felt an open fence would allow for passive security. He further remarked that he is strongly in favor of exercising their property rights. He commented the debate in his mind is the agreement made in 1998 and the fact that approval of the case was based on the fact that the wall

would not be there. He further commented that he felt that piece of paper does represent an agreement that the neighborhood had faith in. To go back now in some ways would be a bait and switch. It would undermine the ability for staff and the developer to negotiate mutually agreeable conditions. He concluded that his position is that a deal is a deal until the parties mutually agree to unmake the deal. He added that he would not support the wall.

VICE CHAIRMAN CORTEZ inquired if the applicant would consider a compromise and design a wall that has vision panels. Mr. Jekel replied he had discussed that issue at length with is a client in the past and they feel only a solid wall could meet their needs. He stated they felt the wall should be built as designed.

Vice Chairman Cortez inquired if they realized that if this request is denied that the process would have to begin all over again as opposed to continue to work with the neighbors and staff in order to reach a compromise. Mr. Jekel stated they understood. He further stated that they are not obligated by the ordinance to make an agreement. He reported that his clients simply asking to follow the ordinance that is in place now and it is unfair to ask them to give up something they have no obligation to uphold.

COUNCILMAN SILVERMAN inquired what their legal right is in this case. Ms. Boomsma stated the Board has the authority to make aesthetic decisions on what it looks like and not to change ordinance requirements. She further stated that she would suggest that this Board can make a decision based on its power to review the development and at the end of the day Mr. Jekel and his clients could decide what to do from there.

Councilman Silverman stated that this is definitely a gated community. He further stated after looking at it he could not believe the gaping hole in the security. He remarked that he has never seen a gated community that has such a wide-open entry. It does not make sense. He further remarked that he could not believe that they did not request this sooner.

Councilman Silverman stated regarding the open area, it was mentioned that the City Council is always trying to keep space open for viewpoints and for animals to go through desert areas and that is true. However this is such a small area and it is not a major view area. He noted that if it were he would have a problem with it. He further noted they are not enclosing that big of an area. He concluded he would be in support of building a solid wall.

MR. JONES MOVED TO APPROVE CASE 119-DR-1998#2 IN FAVOR OF ALLOWING THEM TO BUILD THEIR WALL AS PROPOSED. SECOND BY MS. GALE.

VICE CHAIRMAN CORTEZ stated he would not be supporting the motion as presented because he felt this case would be a bad precedence for future decisions by this Board with regard to neighborhood input and developer commitments. He further stated he believed there was an understanding with the existing neighbors that there would be no wall around that retention basin.

THE MOTION FAILED BY A VOTE OF THREE (3) TO THREE (3) WITH VICE CHAIRMAN CORTEZ, COMMISSIONER D'ANDREA AND COMMISSIONER SCHMITT DISSENTING.

MS. GALE MOVED TO CONTINUE CASE 119-DR-1998#2 UNTIL THE NEXT MEETING. SECOND BY MR. JONES.

THE MOTION FAILED BY A VOTE OF THREE (3) TO THREE (3) WITH VICE CHAIRMAN CORTEZ, COMMISSIONER D'ANDREA AND COMMISSIONER SCHMITT DISSENTING.

COUNCILMAN SILVERMAN inquired if the applicant has to start over. Ms. Shewak stated the applicant can appeal to the City Council or they may re-file the request.

55-DR-2003

Northsight Retail & AutoZone
Site plan & Elevations
14760 N. Northsight Boulevard
RHL Design Group, Architect/Designer

MR. WARD presented this case as per the project coordination packet.

TOM RIEF, Land Development Services, 4413 Saddlebag Trail, stated the discussion a couple of weeks ago focused on the site plan. He further stated he felt it would be safe to say that the elevations were well received. He reported the big question is whether the building should be up front or if the parking should be up front. He further reported that this issue came up at the last minute. The initial discussion started four to five months ago, and they took the site plan to the perspective tenants and they were in agreement with the proposed site plan.

Mr. Rief stated that they have done an analysis of this section of Northsight to understand the context of the area. He reviewed the results of the analysis. He further stated the majority of this area has big boxes parking front and buildings in the back so they felt that was an appropriate character of what is going in the area. He concluded they are requesting approval.

VICE CHAIRMAN CORTEZ stated that he felt staff has a legitimate reason to request that they analyze the site plan for consistency of the context that has been established on that roadway. He inquired why they believe this is

consistent with the architectural context that has been established and they should have the building at the rear of the property. Mr. Rief stated the graphic they have prepared shows that the overall character of the area does not have a majority of the buildings pulled up front. It has a very small percentage of the buildings up front. They are trying to follow the same built character.

Vice Chairman Cortez inquired if this project would fall under the big box category or smaller buildings. Mr. Rief replied by square footage it would fall into a smaller category. Vice Chairman Cortez stated based on the applicant's exhibit the majority of the smaller buildings are on the frontage of that particular road. Mr. Rief stated he believed that there was a mix. Vice Chairman Cortez stated looking at the case file submitted by the applicant he would take exception that the applicant stated the majority of the development on this roadway has parking in front. The applicant's exhibit shows that all of the big boxes are to the rear and all of the smaller square footage buildings are to the front.

DAVID CHURCH, Focus Group, 453 6th Avenue, San Diego, CA, applicant, provided information on the process they have gone through from start to finish. He addressed the character of the area noting they felt this project fits. He reported that this issue was raised at the last minute. He noted that they are not in an adversarial position with staff noting after staff heard the issues why they could not pull the building up and make it work staff supports the current plan. He discussed the reasons why they could not pull their buildings up toward the street. If they bring their buildings up to the street, they would lose AutoZone. They could not achieve the same amount of parking and keep AutoZone as their main tenant.

Mr. Church inquired what would be so beneficial to the city as opposed to the hardship that it would cause them if they had to start over.

VICE CHAIRMAN CORTEZ inquired if the applicant had submitted the alternate site plan to staff. Mr. Church replied in the affirmative. He stated when staff raised this issue they sat down with staff and looked at the alternatives and determined it would not work. The key point is if they were to move the buildings up they would lose parking and because of the way the center would operate with all of the parking in back AutoZone would not go along with that because they are a quick service oriented business.

JESSE MACIAS, RHL Design Group, stated from an architectural standpoint if you put the buildings to the back you have put the functionality of the rear right up against the street. And they would lose the synergy of what they have right now from the street because the public and city gets the best of the architectural features, which are the side and the front.

MR. D'ANDREA stated he thought exploring the option of moving the buildings to the front would be his preference. However as he read this case and from what he heard at the last meeting and his understanding of the restrictions he was in support of the project the way it is given. He further stated he would like to comment on the timing noting to have an idea at the last minute is an unfair situation.

**MR. D'ANDREA MOVED TO APPROVE CASE 55-DR-2003 AS PROPOSED.
SECOND BY MR. SCHMITT.**

**THE MOTION PASSED BY A VOTE OF FIVE (5) TO ONE (1) WITH VICE
CHAIRMAN CORTEZ DISSENTING.**

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Development Review Board was adjourned at 3:30 p.m.

Respectfully Submitted

"For the Record" Court Reporters